

LOCAL AGENCY FORMATION COMMISSION COUNTY OF SAN BERNARDINO

175 West Fifth Street, Second Floor, San Bernardino, CA 92415-0490

• (909) 387-5866 • FAX (909) 387-5871

E-MAIL: lafco@lafco.sbcounty.gov

www.sbclafco.org

DATE: July 12, 2004

FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer

TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: AGENDA ITEM #10 – LAFCO #2953 – City of Hesperia
Reorganization #2003-02 (See Full Title Below)

FULL TITLE:

LAFCO 2953 -- City of Hesperia Reorganization No. 2003-02 Including Annexations to the City of Hesperia, Hesperia Water District, Hesperia Fire Protection District, and Hesperia Recreation and Park District, Detachment from County Service Area 70 Improvement Zone J, and Dissolution of County Service Area 70 Improvement Zones R-41 and R-43 (Freeway Corridor)

INITIATED BY:

City of Hesperia Council Resolution and Resolutions of the Hesperia Fire Protection District and Hesperia Water District

RECOMMENDATION:

Staff is recommending that the Commission:

1. Take the following actions with respect to the environmental review for LAFCO 2953:
 - a. Certify that the Final Environmental Impact Report (EIR) prepared for the Oak Hills Community Plan, the Negative Declaration prepared for the Pre-zoning of the Oak Hills Community Plan area by the City of Hesperia and the Addendum prepared by the Commission's Environmental Consultant have been independently reviewed and considered by the Commission;

- b. Determine that the final EIR and the Negative Declaration prepared by the City of Hesperia, and the Addendum are adequate for the Commission's use to make its CEQA environmental determination as a Responsible Agency related to LAFCO 2953;
 - c. Determine that the Commission does not intend to adopt alternatives for this project, other than those considered by the City, and that mitigation measures included in the City's environmental documents are the responsibility of the City, subsidiary districts, or others, not the Commission;
 - d. Adopt the Addendum and Statement of Findings, Facts, and Overriding Considerations as presented by the Commission's environmental consultant, Tom Dodson and Associates, as the CEQA environmental documentation for review of LAFCO #2953 as presented to the Commission by memorandum dated July 12, 2004; and,
 - e. Direct the Clerk of the Commission to file a Notice of Determination as a Responsible Agency within five days.
2. Approve LAFCO 2953 – Reorganization No. 2003-02 including Annexations to the City of Hesperia, and related agencies, et al. subject to the following conditions:
- a. Initiation of the protest proceedings for this Reorganization shall be held in abeyance to allow for the completion of negotiations between the Hesperia Water District and the County of San Bernardino, on behalf of County Service Area 70 Improvement Zone J, related to the transfer of responsibility for the water facilities within the area. These proceedings shall be held in abeyance for a period not to exceed six months. Failure by the parties to submit a signed agreement within the six month period would require the termination of the proposal. Protest proceedings shall commence upon submission of a signed agreement between the Hesperia Water District and County Service Area 70 Improvement Zone J along with all applicable attachments.
 - b. County Service Area 70 Improvement Zone R-41 and County Service Area 70 Improvement Zone R-43 shall be dissolved as a function of this reorganization.

- c. Upon the dissolution of County Service Area 70 Improvement Zone R-41 (hereinafter CSA 70 Zone R-41) the City of Hesperia shall be designated as the successor agency to all rights, responsibilities, properties, contracts, equipment, assets and liabilities, obligations and functions attributable to the road maintenance and improvement function of the Improvement Zone. The Hesperia Recreation and Park District shall be designated as the successor agency to all rights, responsibilities, properties, contracts, equipment, assets and liabilities, obligations and function of CSA 70 Zone R-41 attributable to its streetlighting function. The City of Hesperia shall succeed to the annual special charge attributable to CSA 70 Zone R-41 upon its dissolution and shall implement cost-of-living increases annually as provided in its formation documents. This special charge revenue shall be divided annually as follows: the City of Hesperia shall receive 67.6% for road improvements/maintenance within the area of the dissolved Zone R-41 and the City of Hesperia shall transfer to the Hesperia Recreation and Park District 32.4% for the payment of costs for streetlighting within the area.
- d. Upon the dissolution of County Service Area 70 Improvement Zone R-43 (hereinafter CSA 70 Zone R-43) the City of Hesperia shall be designated as the successor agency to all rights, responsibilities, properties, contracts, equipment, assets and liabilities, obligations and functions attributable to the road maintenance and improvement function of the Improvement Zone. The Hesperia Recreation and Park District shall be designated as the successor agency to all rights, responsibilities, properties, contracts, equipment, assets and liabilities, obligations and functions of CSA 70 Zone R-43 attributable to its streetlighting function. The City shall succeed to the annual special charge attributable to CSA 70 Zone R-43 upon its dissolution and shall implement cost-of-living increases annually as provided in its formation documents. This special charge revenue shall be divided annually as follows: the City of Hesperia shall receive 67.6% for road improvements/maintenance within the area of the dissolved Zone R-43 and the City of Hesperia shall transfer to the Hesperia Recreation and Park District 32.4% for the payment of costs for streetlighting within the area.
- e. All special charges, including delinquent charges and any and all other collections or assets of the Improvement Zones to be

dissolved, shall accrue and be transferred to the City of Hesperia as the successor agency to be distributed according to the percentages identified above.

- f. Pursuant to the provisions of Government Code Section 56885.5(a)(4), the County of San Bernardino, as governing body for CSA 70 Zone R-41 and CSA 70 Zone R-43, is prohibited from taking the following actions unless an emergency situation exists as defined in Section 54956.5.
 1. Approving any increase in compensation or benefits for members of the governing board, its officers, or the executive officer of the agency;
 2. Appropriating, encumbering, expending, or otherwise obligating, any revenue of the agency beyond that provided in the current budget at the time the dissolution is approved by the commission.
 - g. The continued overlay of County Service Area 60 (Apple Valley Airport) in accordance with the provisions of Government Code Section 56375(n) and make appropriate findings pursuant to Government Code Section 29210.42.
3. Adopt LAFCO Resolution No. 2831 setting forth the Commission's terms, conditions, findings, and determinations.

BACKGROUND INFORMATION:

Approximately eleven years ago, the Commission considered applications related to the Oak Hills community which included a sphere of influence expansion request (LAFCO 2736) initiated by the City of Hesperia and a proposal from the residents within Oaks Hills to create a County Service Area (LAFCO 2733) to encompass the majority of the area served by County Service Area 70 Improvement Zone J (hereinafter CSA 70 Zone J) the domestic water purveyor in the area. Both proposals were reviewed and considered over a period of several months by LAFCO staff and the Commission. During these considerations common themes and goals emerged for the community, such as, both sides of the question believed that the Oak Hills community should be planned as a whole; both sides believed that the preparation of a community plan for Oak Hills was the top priority; both sides agreed that an increased level of service would need to be provided in parts of the community; and

finally, and in the staff and Commission's view most importantly, both sides agreed that the City of Hesperia and community of Oak Hills needed to work together if the goals were to be achieved. Ultimately, both proposals were denied by the Commission in order to allow for a review the various governance alternatives for the community without the controversy that the applications had generated.

The residents of Oak Hills responded to the Commission's denial by undertaking a review of the possibility of incorporating their community. In looking at the incorporation, residents reviewed the possibility of a sphere of influence reduction for the City of Hesperia. The City of Hesperia responded with a request for expansion of their sphere to include the whole of CSA 70 Zone J (LAFCO 2763) and the annexation of the territory along the I-15 corridor (LAFCO 2764) – almost a mirror image of the currently proposed application.

After numerous hearings, compilation of information, and review with the community, the Commission ultimately approved the expansion of the City of Hesperia and its related special districts spheres of influence to include the whole of the Zone J area as a definition of the Oak Hills community. When making this determination, the Commission conditioned its approval on three items, identified in Resolution No. 2445 as follows:

1. The City of Hesperia would assume full responsibility for all legal costs associated with the sphere decision (now a standard condition);
2. The City of Hesperia agreed to establish an Oak Hills Advisory Committee, composed of landowners and residents of the Oak Hills community appointed by the First District Supervisor and the City of Hesperia, to advise the City during preparation of a community land use plan for the entire community of Oak Hills; and,
3. The City of Hesperia agreed to withdraw its pending annexation proposal and defer submission of any future annexations pending completion of its General Plan Amendments, community land use plan, and related environmental review documents. The City further agreed to consider a reconfiguration of the annexation in a manner which would be less divisive of the Oak Hills area and the CSA 70 Improvement Zone J water system.

With the conditions outlined above adopted for the sphere of influence expansion, the City of Hesperia withdrew its reorganization application and began the process of preparation of a Community Plan.

Over the last 10 years or so, the City of Hesperia, the residents of the Oak Hills community and the County Land Use Services Department have worked on preparing a land use plan for the community of Oak Hills. The first milestone was reached when the City Council of the City of Hesperia adopted the EIR and the Oak Hills Community Plan in August 2002. The County of San Bernardino processed the same review for the area and ultimately adopted the EIR and Oak Hills Community Plan in February 2003. As was to be expected, during these years numerous issues, constraints, delays, and problems were encountered, but the City, County, and community representatives strove to maintain the progress of this planning process. This hearing for LAFCO 2953 and LAFCO 2952 will begin the next chapter in this process as the City and community look toward implementation of the Oak Hills Community Plan and the ultimate resolution of governance issues for a portion of this community.

At the June 16th hearing, the Commission was presented with copies of the environmental documents and Community Plan jointly prepared by the City of Hesperia and the County of San Bernardino for the Oak Hills community. It also received copies of the Negative Declaration and environmental assessment prepared by the City of Hesperia for the pre-zoning of the unincorporated Oak Hills Community Plan area. In addition, attached to this report are copies of the City's application, the Plans for Service for the City, its subsidiary Hesperia Fire Protection District and Hesperia Water District and the independent Hesperia Recreation and Park District. In addition an addendum to the EIR and a Draft Finding of Fact and Statement of Overriding Considerations has been prepared by Tom Dodson and Associates, the Commission's Environmental Consultant, and has been provided for Commission consideration under separate cover. Taken together, these documents leave little additional information to be provided in this report. The balance of this report will respond to the four areas that require consideration: boundaries, land uses, service delivery and the effect on other local governments, and environmental considerations. In addition, it will include a presentation of the required factors of consideration as outlined in Government Code Section 56668.

PROPOSAL SUMMARY:

LAFCO 2953 includes approximately 2,190 +/- acres and is generally located within all or portions of Sections 27, 28, 29, 32, 33 and 34, Township 4 North, Range 5 West, and all or portions of Sections 4, 5, 7 and 8, Township 3 North, Range 5 West, San Bernardino Base Meridian. The reorganization area includes territory on both sides of the I-15 Freeway extending from the existing City of Hesperia boundary on the north, traversing approximately four (4) miles

in a southerly direction along the Freeway's course to the terminus of the City sphere of influence at what is commonly called "the Summit". At its widest point, the reorganization area is approximately 1 ¾ miles wide and at its narrowest, approximately 1,000 feet wide. Major topographic features within the area include the Oro Grande Wash within the western portion of the reorganization, a major flood area identified through easements, and a smaller drainage course is identified within the eastern portion of the reorganization area.

The reorganization areas are generally identified as follows:

1. The primary area (Annexations to City of Hesperia, Hesperia Fire Protection District, Hesperia Water District, and Detachment from CSA 70 Improvement Zone J) comprises approximately 2, 190 +/- acres and is generally bordered by a combination of Cedar Street, the existing City of Hesperia boundary, and Joshua Street on the north, a combination of parcel lines and Mariposa Road, Outpost Road, Lassen Road, Corlander Drive and Verbena Road on the east, the southern section lines of Sections 7 and 8 on the south, and a combination of parcel lines and Joshua Road, Oak Hills Road, Verbena Road and Coleridge Road on the west. The area is within the western sphere of influence assigned for the City and related special districts and is bisected by Interstate 15 in a north/south direction.
2. The area proposed for annexation to the Hesperia Recreation and Park District comprises 2, 139 +/- acres and is generally bordered by a combination of Cedar Street and the existing District boundary on the north, a combination of Outpost Road, Lassen Road, Corlander Drive and Verbena Road on the east, the southern section lines of Sections 7 and 8 on the south, and a combination of parcel lines and Joshua Road, Oak Hills Road, Verbena Road and Coleridge Road on the west. The area is within the District's western sphere of influence and is bisected by Interstate 15 in a north/south direction.
3. The dissolution of County Service Area 70 Improvement Zone R-41 comprises approximately 128.8 +/- acres related to Tract 15999 (Quail Summit). The area is generally bordered by a combination of El Centro Road and parcel lines on the north, Lassen Road on the east, Ranchero Road on the south, and the Santa Fe Railroad Right-of-way on the west.
4. The dissolution of County Service Area 70 Improvement Zone R-43 comprises approximately 70.31 +/- acres related to Tract 16272. The area is generally bordered by the Santa Fe Railroad Right-of-Way on the

east, Ranchero Road on the south, parcel lines on the west, and Mariposa Road on the north.

The application has been initiated by resolution of the City Council of the City of Hesperia for the City and its subsidiary Fire Protection and Water Districts, noting its submission is in response to requests from landowners within the area. No official consent documents have been submitted for the application.

Existing land use within the area is essentially vacant with some scattered rural-residential development. Within the 2,190 acres there have been 17 identified registered voters and an estimated 9 dwelling units. The City of Hesperia application estimates the population of the area to be 20 persons.

Existing land uses surrounding the reorganization proposal include to the north industrial uses and trucking/trailer related services (within the City of Hesperia and its related special districts), to the east and west (within the unincorporated City of Hesperia sphere of influence) are scattered residential uses and vacant lands; and to the south (within the National Forest boundary) is predominantly vacant lands with some scattered residential uses.

BOUNDARIES:

LAFCO 2953, as noted above, stretches approximately four (4) miles along the I-15 Freeway Corridor and proposes to annex the territory to the City, its subsidiary Fire Protection District and Water District, and to the independent Recreation and Park District. Included as a function of the reorganization is the detachment of the area from CSA 70 Zone J, the current body responsible for domestic water service in the area, and the dissolution of two improvement zones to County Service Area 70 that provide road maintenance/improvement and streetlighting services for residential tract developments. The primary concern related to the boundaries as presented today, and historically, is that it will effectively split the Oak Hills community in two and will permanently divide CSA 70 Zone J into two separate parts. The boundary issues are outlined as follows:

1. As noted above, this reorganization will effectively split the Oak Hills community into two separate parts, generally annexing the commercial and industrial land uses. While this boundary configuration is of concern to LAFCO staff, it is a direct response to the positions taken by the Oak Hills Community Plan Advisory Committee. Specifically, the community has indicated their desire to remain unincorporated for the rural-residential land uses which are generally related to the western and southeastern portions of the community plan. Those landowners along

the Freeway Corridor are in need of upgraded services for water and sewer service, have continuously indicated their preference to receive those services from the City and its community of special districts and sewer service is most readily available from the Hesperia Water District. These landowners have historically requested annexation to the City of Hesperia and its community of special districts for the urban level services they need.

The staff attempted to determine an alternative boundary which would achieve the goals of the landowners for the receipt of urban level services but alleviate the concern for staff of this “finger” of City territory extending southerly only along the freeway corridor. In reviewing various alternatives, the major stumbling block for staff was the location of corridors across the I-15 freeway. Within the reorganization, there are two passages across the freeway, at Ranchero Road in the northern portion of the proposal and Oak Hills Road almost at the southern boundary of the reorganization. Without an alternative that would achieve the needed level of urban level service delivery and a means for providing the range of services from the Fire and Water Districts on both sides of the freeway, the staff does not propose a modification in the boundaries for the application presented to the Commission.

2. Through the annexation to the Hesperia Water District and the concurrent detachment of this area from CSA 70 Zone J, it will permanently sever the Zone J system in two, separating it into east and west portions.

As a part of the consideration, and a means to address and alleviate this issue, an agreement between the Hesperia Water District and the County of San Bernardino, on behalf of CSA 70 Zone J, is being negotiated to set forth the terms of the transfer of obligations for service, the necessity for maintenance of the interconnections between the east and west Zone J facilities, and to set forth certain facility requirements to maintain the integrity of the Zone J system. LAFCO staff required that this agreement be set forth in principle before consideration of LAFCO 2953 could be placed upon an Agenda for Commission review. This requirement has been achieved and a copy of the draft agreement is included as a part of Attachment #4.

In addition, staff has indicated that its recommendation would include a condition of approval to hold further protest proceedings on the reorganization in abeyance, for a period not to exceed six months, to allow for completion of the contract process. Failure by the parties to

submit a signed agreement within the six month period would require the termination of the proposal. City and County staff have outlined a tentative schedule for consideration of these agreements with the City anticipated to adopt the agreement during the month of August and final action of the County Board of Supervisors anticipated during the month of September.

LAND USE:

The City of Hesperia, and the County of San Bernardino, have both processed the Oak Hills Community Plan addressing the land uses for this entire community. Processing by the City of Hesperia has also included the pre-zoning of the entire Community Plan area. In August 2002, the City Council of the City of Hesperia adopted the Community Plan for the Oak Hills community, following several years of consideration by the Community Advisory Committee made up of members of the unincorporated Oak Hills community and City representatives. This Community Plan sets forth the land uses for the area, the goals and policies for the area as defined by the City of Hesperia, and through its review and adoption by the County of San Bernardino, sets forth the anticipated development for the area regardless of jurisdiction. A copy of the adopted Land Use Map is included as Attachment #3.

The pre-zoning of the area was completed by the City in December 2003 and assigned City land use designations to the entire area of the Community Plan. Land use designations within the reorganization area include the following:

- a. Rural Estate (RE) (County designation -- OH/RL Rural Living) allowing 0.4 dwelling unit/per acre (2 ½ acre parcel sizes). The intent of this land use designation is to identify areas where rural residences may be established with related animal uses and to prevent the inappropriate demand for urban types of services.
- b. Open Space (OS) (County designation -- OH/FW Floodway) – The intent of this land use designation is to identify and preserve areas for flood flows and to protect these floodways from the encroachment of incompatible land uses. This land use designation also allows for the provision of recreational trails, passive open space and special preserve areas. This identification includes the Oro Grande Wash area (western side of I-15) and the smaller drainage course along the eastern side of the I-15.

- c. General Commercial (C) (County designation -- OH/CN Neighborhood Commercial) – The intent is to provide suitable locations for retail and service commercial establishments intended for daily convenience needs of the residents of the local neighborhood.
- d. Commercial (C) (County designation – OH/CG General Commercial) – The intent of this land use designation is to provide areas for stores, offices, service establishment and others scaled to meet the neighborhood and community needs.
- e. Public (P) (County designation – OH/IN Institutional) – to identify existing lands and structures committed to public facilities and public agency use along with providing areas for future development of public facilities.
- f. The City has assigned a number of special development categories within the area of consideration identified as: Special Development, Planned Commerce Development, Commercial/Special Development, Freeway Development, and Community Center Development. All of these designations are included within the County’s primary land use category of Planned Development (OH/PD).

As identified in the text of the Community Plan, these land use designations are placed upon areas which, due to lack of infrastructure, topography, environmental sensitivity, and/or development constraints, require comprehensive planning prior to development. The preferred means of addressing these issues is through the preparation of a Specific Plan or Planned Development application. This preferred method of development processing would allow for the inclusion of a detailed implementation program including facility phasing and funding, carefully prescribe the means of balancing development and open space, provide for special regulations responsive to unique local conditions, and allow for the flexibility necessary for long-range planning.

The text of the Community Plan includes the following: “An adopted comprehensive Specific Plan may establish a higher density based upon environmental, topographic, and infrastructure capacity of the land as defined by supporting documentation. With approval of such Specific Plan, a General Plan Amendment shall be approved to amend the land use designation to Specific Plan (OH/SP). The actual prefix for any Specific Plan area shall be determined at the adoption of the Specific Plan.”

There are no specific land use issues to be addressed as the land uses are consistent with the City and County General Plans for the area. The City has indicated that no specific development plans are known to exist for the area proposed for reorganization at this time.

SERVICE ISSUES:

Existing service needs within the area are minimal due to its primarily vacant and rural-residential nature. The County, through its system of county service areas and improvement zones, provides existing services, such as water service, fire protection, etc. However, the Community Plan anticipates land uses within the reorganization area at higher levels and intensities of development. The area included within this application comprises the area anticipated to primarily include commercial and industrial uses according to the land uses identified within the Community Plan.

As noted in the Plan for Service submitted by the City of Hesperia, the development of this area is inextricably tied to future infrastructure development. Water and sewer facilities, development of a fire station facility, the purchase of necessary equipment, and future staffing will need to be funded through financial arrangements as yet to be developed. The City of Hesperia has indicated for its subsidiary districts – water and fire – that a funding package will need to be developed to address construction of infrastructure, while the maintenance and operation costs for these services will be funded by property tax receipts (fire) and user charges (water and sewer service). The independent Hesperia Recreation and Park District has indicated that it will utilize its existing financing structures to provide its services -- park and recreation and streetlighting. The Plan for Service presented indicates that existing service levels, at a minimum, will be maintained and will be enhanced as development takes place. The major elements of the Plan for Service are summarized as follows:

1. Water Service (provided by the City subsidiary Hesperia Water District):

There are limited water facilities within the area proposed for reorganization at the present time. The development of the water and sewer infrastructure for this area, as anticipated through the Community Plan land uses, has been addressed in the Environmental Impact Report and the Plan for Service submitted for this application, all of which have been provided to the Commission for its information. The portion of the Plan for Service that addresses the provision of domestic water service notes that there are existing CSA 70 Zone J facilities within Mariposa Road and Caliente Road that provide service to the developed parcels of

the I-15 frontage. These pipelines are essential to the CSA 70 Zone J system overall and cannot be disconnected and transferred to the Hesperia Water District.

The County Special Districts staff has provided an outline of its concerns regarding the detachment of CSA 70 Zone J and the impacts to its system (included as Attachment #6). As identified earlier in this report, staffs of the Hesperia Water District and County Special Districts have been working toward agreements that would allow for disconnection of certain portions of the CSA 70 Zone J system and transfer of those to the Hesperia Water District along with a definition of the facilities to maintain the integrity of the CSA 70 Zone J system. A copy of the draft agreement is included as a part of Attachment #4.

In addition, staff has indicated that its recommendation would include a condition of approval to hold further protest proceedings on the reorganization in abeyance, for a period not to exceed six months, for completion of the contract process. Failure by the parties to submit a signed agreement within the six month period would require the termination of the proposal. City and County staff have outlined a tentative schedule for consideration of these agreements that should culminate during the month of September by action of the County Board of Supervisors.

2. Sewer Service (provided by the City Subsidiary Hesperia Water District);

There are no sewer facilities within the area proposed for reorganization. The Plan for Service identifies that the Water District's existing facilities terminate in Caliente Road and the existing southern City limit. The Hesperia Water District is a part of the Victor Valley Regional Wastewater Reclamation Authority (VWVRA) which was formed in 1978 to manage the regional wastewater treatment plant. Wastewater generated within the reorganization area would be transported to the regional facility, or transported to a possible sub-regional plant as identified in the Hesperia Water District's Sewer Master Plan.

Extension of sewer facilities in the future would be funded by developers of the area and could be accomplished through the creation of Mello Roos Community Facilities Districts or other alternative funding mechanisms. The ongoing maintenance and operation of these facilities would be fully funded through user charges.

3. Fire Protection (provided by the City subsidiary Hesperia Fire Protection District by contract with the County of San Bernardino):

The County Fire District has submitted concerns related to detachment of this area from CSA 38 and the further erosion of funding available to CSAs 38 and 70 to perform its fire function (copy of information included as part of Attachment #7). This concern has been reviewed and the Hesperia Fire Protection District (Hesperia FPD) has indicated that an agreement signed between the County and Hesperia FPD to specify continuing service relationships in the Summit Valley, Oak Hills, and Spring Valley Lake addressed this issue. However, during the processing of this application, the Hesperia FPD and County Service Areas 38 and 70 negotiated a contract for the County to provide fire protection services for the territory of the Hesperia FPD.

The entire reorganization area is designated as "State Responsibility Area" for wildland fire protection purposes (map included as part of Attachment #7) by the California Department of Forestry. Upon annexation, this designation will be removed and the financial obligation for this type of fire protection will be transferred to the City. The supplemental information submitted for the Plan for Service indicates that upon annexation, the City and Fire District would contract with the California Department of Forestry for wildland fire suppression services. The current rates, at the close of FY 2003-04, for this service are \$7.71 per acre, plus a 10.18% administrative fee; however, this fee structure is anticipated to change for the upcoming year. Using current information, the cost is calculated to be \$18,604 annually. The Hesperia Fire protection District will receive \$20,902 in property tax revenues through this annexation. If such a contract were to be considered, it would leave little revenue to provide the actual services within the area.

4. Road Maintenance and Streetlighting Services within CSA 70 Zones R-41 and R-43:

As a function of the reorganization, CSA 70 Zones R-41 (Quail Summit) and R-43 (Tract 16272) are proposed to be dissolved and their functions transferred to the City of Hesperia for road maintenance and improvement and the Hesperia Recreation and Park District for the streetlighting services. Copies of the information related to these improvement zones are included as Attachment #5. Staff is proposing conditions of approval that will require the City to succeed to the special charges of these agencies, establish a distribution methodology utilizing a percentage distribution of the service charge, and transferring all the

assets of these agencies upon their dissolution. The services will not be affected by this change.

ENVIRONMENTAL ISSUES:

The environmental review response from Tom Dodson and Associates has been provided by separate memorandum dated July 12, 2004 for Commission consideration and includes Addendum No. 1 to the Final EIR and the required Statement of Overriding Considerations regarding the environmental effects from approval of this reorganization. It is recommended the Commission incorporate the following actions if it wishes to approve this proposal.

1. Certify that the final environmental impact report (EIR) prepared for the Oak Hills Community Plan, the Negative Declaration prepared for the Pre-zoning of the Oak Hills Community Plan area by the City of Hesperia and the Addendum prepared by the Commission's Environmental Consultant have been independently reviewed and considered by the Commission;
2. Determine that the final EIR and the Negative Declaration prepared by the City of Hesperia, and the Addendum are adequate for the Commission's use to make its CEQA environmental determination as a Responsible Agency related to LAFCO 2953;
3. Determine that the Commission does not intend to adopt alternatives for this project, other than those considered by the City, and that mitigation measures included in the City's environmental documents are the responsibility of the City, subsidiary districts, or others, not the Commission;
4. Adopt the Addendum and Statement of Findings, Facts, and Overriding Considerations as presented by the Commission's environmental consultant, Tom Dodson and Associates, as the CEQA environmental documentation for review of LAFCO #2953 as presented to the Commission by memorandum dated July 12, 2004; and,
5. Direct the Clerk of the Commission to file a Notice of Determination as a Responsible Agency within five days.

FINDINGS:

The following findings are required to be provided by Commission policy and Government Code Section 56668:

1. The Registrar of Voters Office has determined that the study area is legally inhabited, containing 17 registered voters, as of June 18, 2004.
2. The study area is within the sphere of influence assigned for the City of Hesperia and its community of special districts.
3. The County Assessor's Office has determined that the assessed valuation of land and improvements within the study area is \$13,664,106 (\$8,979,042 land; \$4,685,064 improvements).
4. Legal advertisement of the Commission's consideration has been provided through publication in *The Hesperia Resorter*, *The Daily Press* and *The Sun*, newspapers of general circulation within the study area. Individual notice has been provided to those individuals and agencies having requested such notification.
5. LAFCO staff has provided an individual notice to the landowners and registered voters within the reorganization area (totaling 139 notices), and to landowners and voters within 1350 feet surrounding the study area (totaling 581 notices) in accordance with state law and adopted Commission policies. To date, a single letter of protest has been received to the notices provided regarding consideration of this proposal.
6. The City of Hesperia has processed a Community Plan and Pre-zoning of the reorganization area and the Oak Hills community in its entirety. These land use designations and the City's processing are more fully discussed in the narrative to this report. The designations assigned include commercial, industrial and rural residential within the area. These land uses conform to the General Plan of the City of Hesperia, as modified. Pursuant to the provisions of Government Code Section 56375(e) these zoning designations shall remain in effect for two years following annexation unless specific actions are taken by the City Council.
7. The Commission's environmental consultant, Tom Dodson and Associates, has reviewed the City of Hesperia's Initial Study and Negative Declaration (for the pre-zoning of the Oak Hills Community Plan area) and the Environmental Impact Report and Statement of Overriding Considerations prepared for the Oak Hills Community Plan. Mr. Dodson has determined that these documents taken together are adequate for the Commission's review of the proposed reorganization as a responsible

agency. Copies of the City's environmental documents were presented to the Commission at the June 16th hearing.

The necessary actions to be taken by the Commission, as a responsible agency, include the following:

- a. Certify that the final environmental impact report (EIR) prepared for the Oak Hills Community Plan, the Negative Declaration prepared for the Pre-zoning of the Oak Hills Community Plan area by the City of Hesperia and the Addendum prepared by the Commission's Environmental Consultant have been independently reviewed and considered by the Commission;
 - b. Determine that the final EIR and the Negative Declaration prepared by the City of Hesperia, and the Addendum are adequate for the Commission's use to make its CEQA environmental determination as a Responsible Agency related to LAFCO 2953;
 - c. Determine that the Commission does not intend to adopt alternatives for this project, other than those considered by the City, and that mitigation measures included in the City's environmental documents are the responsibility of the City, subsidiary districts, or others, not the Commission;
 - d. Adopt the Addendum and Statement of Findings, Facts, and Overriding Considerations as presented by the Commission's environmental consultant, Tom Dodson and Associates, as the CEQA environmental documentation for review of LAFCO #2953 as presented to the Commission by memorandum dated July 12, 2004; and,
 - e. Direct the Clerk of the Commission to file a Notice of Determination as a Responsible Agency within five days and find that no further Department of Fish and Game filing fees are required by the Commission's approval since the City, as lead agency, has paid said fees.
8. Upon annexation, the City and affected agencies will extend their services as required by the progression of development. The financial information portion of the Plans for Service indicates that supplemental funding through the formation of a Community Facilities District, or other similar financing issue, will be required for this area. Through these mechanisms, the Plans state that the level of service will be

adequate for the development anticipated and that the revenues to be provided through the financing mechanisms are anticipated to be sufficient to provide for the infrastructure and ongoing maintenance and operation of the services from the City of Hesperia, Hesperia Water District, Hesperia Fire District and Hesperia Recreation and Park District.

9. The area in question is presently served by the following public agencies:

County of San Bernardino

County Service Area 38 (fire protection)

County Service Area 60 (Apple Valley Airport)

County Service Area 70 and its Improvement Zones:

Zone J (domestic water purveyor)

Zone R-41 (road maintenance and streetlighting) (Quail Summit Tract 15999)

Zone R-43 (road maintenance and streetlighting) (Tract 16272)

Mojave Water Agency and its Improvement District No. 1

Mojave Desert Resource Conservation District

County Service Area 38, County Service Area 70 and County Service Area 70 Improvement Zone J will be detached upon successful completion of this annexation. Pursuant to the provisions of Government Code Section 57025, individual notice of the protest proceeding shall be provided to the landowners due to the detachment of the improvement zone.

Improvement Zones R-41 and R-43 of CSA 70 will be dissolved as a function of this reorganization. As a condition of approval, staff is recommending that the City of Hesperia shall succeed to the special charges of these agencies and annually distribute those revenues to the Hesperia Recreation and Park District for provision of streetlighting services and to the City for road maintenance and improvements within the respective areas.

As a condition of approval, County Service Area 60 will be retained overlaying the area. The continued overlay of CSA 60 is appropriate based on the regional nature of its Apple Valley Airport function. This overlay is authorized by Government Code Section 56375(n) if the Commission finds that the continued overlay is justified to help preserve the health, welfare, and safety of present and future inhabitants of the study area and the region and that it will not affect the ability of the City to provide any service.

None of the other agencies will be directly affected by the completion of this proposal through an adjustment in their boundaries.

10. The annexation proposal complies with Commission policies that indicate the preference for areas proposed for development at an urban-level land use to be included within a City so that the full range of municipal services can be planned, funded, extended and maintained.
11. The City of Hesperia and Hesperia Recreation and Park District have submitted Plans for Service, as required by law and Commission policy (included as a part of Attachment 2). The City's Plan for Service (which addresses service provision by the City, and its subsidiary Fire and Water Districts) outlines that the agencies can provide their services to the area based upon the land use plans provided within the Oak Hills Community Plan. The Plan for Service provided by the Hesperia Recreation and Park District outlines the services to be extended by the District (park and recreation services as well as streetlighting and public landscaping). The Plan provided by the District indicates "parks, open space, trails, street lights and other required infrastructure will be provided by the developer using agreed upon programs between City and developer." The Park District indicates that it will include the areas within existing assessment districts for ongoing maintenance and operations.
12. Comments from landowners and affected local agencies have been reviewed and considered by the Commission in making its determinations.
13. The study area can benefit from the availability of municipal-level services from the City of Hesperia and its related special districts.
14. This proposal may assist the City's ability to achieve its fair share of the regional housing needs upon development of the residential portions of the Community Plan included within the reorganization.
15. The County of San Bernardino and the City of Hesperia have successfully negotiated a transfer of property tax revenues that will take effect upon completion of this annexation. This negotiated agreement fulfills the requirements of Section 99 of the Revenue and Taxation Code.
16. Maps and legal descriptions, as revised, are in substantial compliance with LAFCO and state standards through certification by the County Surveyor's Office.

CONCLUSION:

The staff has wrestled with the issue of the boundary configuration presented by this reorganization since it represents a four-mile finger of city territory extending southerly to the southern boundary of its sphere of influence. Staff was not able to define a superior alternative that would facilitate the long-range service planning necessary for infrastructure development. So in the end, staff has evaluated the proposal presented against the policies and direction of State law and the Commission. Staff's position is that the policy standards developed by the State and the Commission point toward the approval of this proposal. These policies are:

- ❑ Urban level development should be included within a municipal service provider or providers;
- ❑ The plans developed for this area require the reliance upon facilities which are to be developed by the City and its subsidiary districts, therefore, this project should be included within the boundaries of these agencies to allow for extension of these services and development of the necessary financing mechanisms; and
- ❑ The area has been a part of the sphere of influence of the City and its related special districts since 1994 through approval of LAFCO 2763. That sphere of influence determination included specific conditions of the Commission regarding future annexations within the Oak Hills community, such as, awaiting the completion of community plans for the development of the area. These conditions have been addressed and completed by the City of Hesperia.

Based upon these elements of review, the staff is recommending that the Commission approve the proposal by taking the actions listed under the recommendation section.

KRM/

Attachments:

- 1 -- Location, area and topographic maps of proposal
- 2 -- City Application, Plans for Service, Supplement to City Plan
- 3 -- Oak Hills Community Plan map and excerpt from Text
- 4 -- Draft Agreement between Hesperia Water District and CSA 70 Improvement Zone J for facility transfer

- 5 -- Outline of CSA 70 Improvement Zones R-41 and R-43
- 6 -- Response from County Special Districts Department related to CSA 70 Improvement Zone J
- 7 -- Response from County Fire District and CDF on Fire Service
- 8 -- Draft LAFCO Resolution No. 2831